

(2) **ADDITIONAL EVIDENCE.** If by stipulation of the parties, documentary evidence is permitted to be submitted after the close of testimony, the record will be closed when such documentary evidence is received by the department or when the specified time for furnishing it has elapsed without its being furnished. The hearing examiner may, upon the request of the stipulating parties, extend the time as originally prescribed for filing such additional evidence.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.155 Decisions in contested cases. (1) EXAMINER DECISION. The hearing examiner shall prepare findings of fact, conclusions of law and decision subsequent to each contested case heard. Said decision shall be the final decision of the department, but may be reviewed in the manner described in NR 2.20.

(2) **SECRETARY DECISION.** (a) Notwithstanding sub. (1) the secretary, prior to hearing, may direct that the record be certified to the secretary or secretary's designee for decision in accordance with the provisions of s. 227.09 (3) (b), Stats., without an intervening decision by the hearing examiner.

(b) Notwithstanding (1) the secretary prior to hearing may direct that the decision be made in accordance with the provisions of s. 227.09 (2) or (4), Stats.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; emerg. am. (2) (a), eff. 10-1-82; am. Register, May, 1983, No. 329, eff. 6-1-83.

NR 2.16 Reopening hearings. When a hearing in a contested case is closed, no further evidence shall be received, except by order of the department reopening a closed contested case for the taking of future evidence upon application of a party showing to the department's satisfaction that the evidence is newly discovered or was not available at the time of the hearing and that the evidence is necessary for a just disposition of the case.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.17 Transcripts. (1) METHOD AND COPIES. Hearings in contested cases will be transcribed either stenographically or mechanically. A typed transcript will be made when deemed necessary by the department. If a transcript is made by the department, copies will be furnished to all persons upon request at a reasonable cost. If no transcript is deemed necessary by the department and a party requests that one be prepared, that party shall be responsible for all costs of transcript preparation. In lieu of a transcript the department will provide any person a copy of the tape recording of a public hearing upon request and at a reasonable cost. All requests pursuant to the above provision shall be made in writing and presented to the hearing examiner at the hearing.

(2) **FINANCIAL NEED.** Any person who by affidavit or other appropriate means can establish to the department's satisfaction that the person is impecunious may be provided a copy of a transcript without charge.

(3) **CORRECTIONS.** Any party, within 7 days of the date of mailing of the transcript, may file with the hearing examiner a notice in writing of any claimed error therein, and shall mail a copy of such notice to each party of record. Other parties may contest any claimed error within 12 days of the date of the mailing of the transcript by so notifying the hear-

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ing examiner and other parties of record. All parties will be advised by the hearing examiner of any authorized corrections to the record.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73; am. Register, December, 1976, No. 262, eff. 1-1-77.

NR 2.18 Briefs. (1) TIME FOR BRIEFS. In contested cases, parties shall indicate on the record after the close of testimony whether they desire to file briefs. The party or parties having the affirmative shall file affirmative briefs within 15 days after date of mailing of transcript. Other parties 8 days thereafter shall file answer briefs, which may be replied to within 5 days. The hearing examiner in his discretion may establish an alternate schedule for the filing of briefs.

(2) NUMBER. Five copies of all briefs shall be filed with the department together with a certification showing when and upon whom copies have been served. Briefs which contain a summary of evidence or facts relied upon shall include reference to specific pages of the record containing such evidence.

(3) EFFECT OF EARLY FILING. The filing of briefs in less time than allowed shall not change the due dates for the remaining briefs.

History: Cr. Register, March, 1973, No. 207, eff. 4-1-73.

NR 2.19 Confidential status. (1) APPLICABILITY. This section establishes a procedure which shall apply to requests made to the department to treat as confidential, information in possession of the department or being requested by the department.

(2) RESPONSIBILITY FOR ESTABLISHING CONFIDENTIALITY. The burden of establishing the need for confidential treatment of any information shall be on the person requesting such treatment of the information.

(3) APPLICATION FOR CONFIDENTIAL STATUS. Any person seeking confidential treatment of information shall file with the department a written application for confidential status containing in affidavit form:

- (a) The name and address of the applicant;
- (b) The position of the individual filing the application;
- (c) The specific type of information for which confidential status is sought;
- (d) The facts and supporting legal authority believed to constitute a basis for obtaining confidential treatment of the information.

(4) ADDITIONAL INFORMATION. Within 21 days of the receipt of a complete application, the department shall mail to the applicant a list of written interrogatories the answers to which are necessary for a determination under this section. If an extension has not been granted and if the applicant fails to answer all the interrogatories within 30 days, the department shall deny the application. The department may also deny the application if the applicant fails to provide the information requested in the interrogatories. If a determination under this section can be made solely on the basis of information appearing in the application, written interrogatories may be waived by the department. The responses to the interrogatories shall be treated as confidential if a request for such treatment from the applicant accompanies the responses.